Morton Mintz

Some Hindsight By Kleindienst

Post 3/18/72

THE SENATE Judiciary Committee, in its initial, three-day hearing last month on Richard G. Kleindienst, had a simple mission, one uncomplicated as yet by the International Telephone and Telegraph matter: to review his qualifications: to be Attorney General.

Notably no committee member touched on a case that raised the question why Kleindienst, by his own sworn testimony in a criminal trial, was unable to detect a crime committed in his presence.

Notably, too, no committee member evidenced the slightest curiosity about the use in the same case, of electronic surveillance although that surveillance was conducted in and around the office of Hiram L. Fong (Hawaii), the second-ranking Republican on Senate Judiciary.

The man convicted of the crime — attempted bribery with a large campaign contribution—was Robert T. Carson. At the time he went to the office of the Deputy Attoney general he was administrative assistant to Fong, who has condemned electronic surveillance as well as wire-tapping as "an extraordinary threat to our civil liberties."

THE CARSON case surfaced only once in the committee hearing, when, last week, Jack Anderson charged that in failing to recognize what Carson was doing, Kleindienst demonstrated his unfitness to be the nation's top law enforcement officer. The committee did not follow up.

In the Court of Appeals in New York City, where Carson's appeal is pending, records of his trial disclose in extraordinary detail the methods and technology of the surveillance, as well as backgound on the whole episode.

The Deputy Attorney General, testifying for the government last Nov. 16, said he knew Carson well from the time when both aided in Richard Nixon's quest for the Republican presidential nomination in 1968.

On Nov. 24, Kleindienst testified, Carson came to see him and said that he had a friend in New York who was in trouble, and that if I could help him with respect to his trouble, his friend was a man of substantial means and would be willing to make a substantial contribution of between $50,000 and $100,000 to the re-election of President Nixon.

"I asked him what kind of trouble this man had. Mr. Carson said that he was under indictment for federal offenses, and I said that under no circumstances would I do anything about the matter, even look into it, as a result of the fact that a grand jury had returned an indictment," Kleindienst said.

THE PROSECUTOR, Assistant U.S. Attorney Robert G. Morvillo, said in his opening statement at the trial that Carson was "offering a bribe to the Deputy Attorney General."

But for a week after the conversation with Carson, Kleindienst did not, he testified, perceive it that way.

Consequently, he told a jury in the court of Judge Marvin E. Frankel, he gave the matter no further thought and made no notation of it.

Six days after the Carson visit to Kleindienst, on Nov. 30, 1970, FBI chief J. Edgar Hoover sent a memo to Attorney General John N. Mitchell saying that FBI agents planned to conduct an electronic surveillance in the New Senate Office Building the next morning.

A day later Kleindienst saw the Hoover memo and learned for the first time that Carson was under investigation and that an electronic surveillance was to be conducted that same morning in Senator Fong's office.

Within minutes after he saw the memo, Kleindienst said later in court, he not only reported the Carson interview to Mitchell but prepared a memo on it that he later repeated, under oath, to the FBI.

A grand jury, on Jan. 13, 1971, indicted Carson for conspiring to bribe and perjury. He was convicted on both counts.

Sen. Fong attended the first morning of the three-day Judiciary Committee hearing on Kleindienst in February. He told a reporter soon thereafter that he had no chance to ask questions of Kleindienst, and had to leave for a conference.

Would he have questioned Kleindienst about such surveillance had time permitted? Yes, Fong replied. But in the weeks of hearings since then he has not raised the issue. An aide said he may consider it irrelevant to the ITT case.